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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,222	05/01/2007	Fadi Salim Amran	023045-0001US	1756
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Rutan & Tucker, LLP. 611 ANTON BLVD SUITE 1400 COSTA MESA, CA 92626			EXAMINER SWENSON, BRIAN L	
			ART UNIT 3618	PAPER NUMBER
			MAIL DATE 02/18/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/542,222

**Applicant(s)**

AMRAN, FADI SALIM

**Examiner**

BRIAN SWENSON

**Art Unit**

3618

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-10 and 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 November 2008 has been entered, where:

- a. Claims 2, 8, 10, 12, and 15 are amended; and
- b. Claims 4 and 11 are cancelled.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 16-17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,932,427 issued to Tamura in view of U.S. Patent No. 6,145,716 issued to Caicedo.

Tamura teaches in Figures 1-5 and respective portions of the specification of a collapsible stroller with: a first configuration is a stroller configuration wherein the stroller comprises a seat assembly adapted to receive a child (see Figure 1 and Col. 1, line 8 where it is disclosed that the seat is adapted for a child); and another configuration is a portable configuration wherein the stroller is adapted to be pushed or pulled along the

ground using wheels (14a and 14b) and using a handle (15) extended from the stroller backpack while the seat assembly is not adapted to receive a child (see for example Figure 4).

Tamura discloses the claimed invention including a third configuration (Figure 3) where the seat assembly is folded out of the way and the carrier is used as a suitcase; however, Tamura does not teach of shoulder straps for using the carrier as a backpack.

Caicedo teaches in Figures 1-10 and respective portions of the specification of a backpack with shoulder straps (60 and 61) that contains a seat that can be folded into a use position.

It would have been obvious to one having ordinary skill in the art at the time of invention to combine the familiar shoulder straps taught by Caicedo, located on the opposite side of the container (11) as the seat (21), with the suitcase structure taught by Tamura (Figure 3) to allow the user to transport the suitcase over an uneven running surface with the user's hands free. The resulting combination results in a stroller backpack; additionally, such a combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (see MPEP 2143(A)).

In re claims 17 and 21, the method of changing the configuration of the stroller backpack by extending a handle outward (Figure 1 of Tamura) and causing the seat assembly to project outward from the container away from the handle (Figure 2 of Tamura) and then collapsing the seat and handle (Figure 3 of Tamura) is inherently performed by the apparatus taught by Tamura and as modified by Caicedo.

3. Claims 2-3, 5-10, 12-15 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tamura in view of Caicedo, as modified above, and in further view of U.S. Patent No. 3,290,050 issued to Ezquerro.

Tamura as modified by Caicedo disclose a handle (15), but do not teach of a rotatable handle and two grip members moveably coupled to the handle.

Ezquerro teaches of an adjustable handle (Figure 1, element 17) for a stroller that allows two grip member's placement to be adjusted; see reference numeral 20 which is taken to be a grip member, allowed to translate longitudinally within handlebar 17 (see arrowheads located above handlebar).

It would have been obvious to one having ordinary skill in the art at the time of invention to provide the adjustable handle structure, as taught by Ezquerro, in the invention taught by Tamura and as modified by Caicedo to provide the advantage of allowing the handle to be placed at an ergonomic position for the user.

In re claim 3, see Figure 1 of Tamura where the seat (21) projects from the container (11).

In re claim 5, see shoulder straps (60 and 61) taught by Tamura.

In re claims 18-20 the method of changing the configuration is inherently performed by the apparatus taught by Tamura and as modified by Caicedo and Ezquerro. Additionally, it would have been obvious to one having ordinary skill in the art at the time of invention to provide a zipper to store the seat, as shown by Tamura in Figure 1, as an obvious engineering expedient for securing the seat.

In re claims 6, 7, 9, 10 and 14-15 the grip can be repositioned relative to another member of the handle; see Figure 2 of Ezquerro where reference numeral (20) is allowed to translate longitudinally relative to handlebar 17 (see arrowheads located above handlebar).

### ***Response to Arguments***

In regards to applicant's arguments, pages 7-8 of the response, that "the suitcase of Tamura is not intended to be carried." Applicant cites, as support, Col. 1, lines 33-35 and 50-53, and Col. 3, lines 19-25. The examiner notes the cited passage (Col. 1) is a discussion of the prior art (Japanese Laid-Open Patents 28438/1997 & 179824/1982) and is not considered germane to the patent issued to Tamura. The passage cited in Col. 3 is a discussion of moving the suitcase along the floor by the wheels. Neither passage supports applicant's argument that "the suitcase of Tamura is not intended to be carried." Tamura further contradicts applicant's assertion by showing two handles (see elements 17 in Figure 1) for allowing a user to carry the suitcase.

In regards to applicant's argument, page 8, that Tamura does not disclose the third configuration where the stroller back is adapted to be pushed or pulled along the ground using a handle extending from the stroller backpack; in the modified invention taught by Tamura as modified by Caicedo the third configuration is shown Tamura in Figure 3, where the handle (15) is extended and the seat assembly is not adapted to receive a child.

In regards to applicant's arguments, page 8 of the response, that when combined, neither Caicedo nor Tamura, taken singly or in combination teach or suggest

the invention taught in the present invention. As discloses *supra* the combination taught by Tamura as modified by Caicedo teaches:

(a) a first configuration is a stroller configuration wherein the stroller backpack comprises a seat assembly adapted to receive a child (see Tamura, Figure 1 and Col. 1, line 8 where it is discloses that the seat is adapted for a child);

(b) a second configuration is a backpack configuration wherein the stroller backpack is adapted to be worn and to carry items while the seat assembly is not adapted to receive a child (see Caicedo, Figures 7 and 8);

(c) and a third configuration is a portable configuration wherein the stroller is adapted to be pushed or pulled along the ground using wheels (14a and 14b) and using a handle (15) extended from the stroller backpack while the seat assembly is not adapted to receive a child (see Tamura for example Figure 4).

In regards to applicant's arguments, pages 9 and 10 of the response, that "elements, even distinguishing elements, are disclosed in the art is insufficient" and "[i]t is insufficient that the art disclosed components of Applicant's invention. A teaching, suggestion, or incentive must exists to make the combinations by Applicant."

As disclosed above, the examiner maintains the position that it would have been obvious to one having ordinary skill in the art at the time of invention to combine the familiar shoulder straps taught by Caicedo, located on the opposite side of the container (11) as the seat (21), with the suitcase structure taught by Tamura (Figure 3) to allow the user to transport the suitcase over an uneven running surface with the user's hands free. Moreover, the combination of Tamura and Caicedo (and Ezquerria) would result in

a predictable variation that one of ordinary skill in the art would recognize as no more than the predictable use of prior art elements according to their established functions, which has been held unpatentable under 35 U.S.C. 103(a), absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art. Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN SWENSON whose telephone number is (571)272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/  
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Brian Swenson  
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